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12
13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA**

15 **SAN FRANCISCO DIVISION**

16
17 IN RE: UBER TECHNOLOGIES, INC.,
18 PASSENGER SEXUAL ASSAULT
LITIGATION

19 This Document Relates to:

20 ALL ACTIONS
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Case No. 3:23-md-03084-CRB

**DEFENDANT UBER TECHNOLOGIES,
INC., RAISER, LLC, AND RAISER-CA,
LLC'S BRIEF IN SUPPORT OF UBER'S
PRIVILEGE CLAIMS CHALLENGED BY
PLAINTIFFS FOR THE SACHIN
KANSAL CUSTODIAL FILE –
PURSUANT TO SPECIAL MASTER
ORDER NO. 3 (DKT. 2472)**

Pursuant to Special Master Order No. 3, I (4) (Dkt. 2472), Defendants submit this brief in support of their position on the remaining privilege challenges for custodian Sachin Kansal. Plaintiffs had a total of 111 challenges to documents in this custodial file as of April 16. Through conferrals, the parties have narrowed their dispute to 49 challenges. These challenges are now submitted for the Special Master's review.

In addition to the factual material already made available for the Special Master's consideration, Defendants provide a declaration from Daniel Kolta, Uber's Legal Director, Global Safety.¹ Mr. Kolta's declaration provides additional factual background regarding a feature of the Uber platform. This factual background provides important context for Uber's privilege assertion as to four documents at issue in this custodial file:

- JCCP_MDL_PRIVLOG079870,
- JCCP_MDL_PRIVLOG079712,
- JCCP_MDL_PRIVLOG079416, and
- JCCP_MDL_PRIVLOG079417.

As explained in the declaration, Mr. Kolta was intimately involved with the feature's development as Product Counsel since its inception. Product Counsel advises various Uber development teams on where tests can be conducted and the experimental parameters that may be included for evaluation. The dominant purpose of Product Counsel's relationship with the development teams is identifying, managing, and advising on legal risks associated with the development of new features. The four documents addressed in Mr. Kolta's declaration reflect his close involvement providing legal advice to the developers as Product Counsel and Mr. Kolta's role in managing legal risks based on experimental data and trends observed by the development team. Defendants are also making available for the Special Master's review two additional documents—an email from then-Legal Director, Safety, Scott Binnings, and an email from Mr. Kolta—that further substantiate the privilege assertion as to JCCP_MDL_PRIVLOG079712.

¹ Daniel Kolta's declaration is being submitted *ex parte* with permission from the Special Master.

Each of the four challenged documents addressed in Mr. Kolta’s declaration are privileged because they were made during the course of an attorney-client relationship and were to facilitate the provision of legal advice. *See* Special Master’s Ruling on Obj. (Apr. 11, 2025) (quoting *Costco v. Wholesale Corp. Sup. Ct.*, 47 Cal. 4th 725, 740 (2009) (“If ‘the communications were made during the course of an attorney-client relationship’—as opposed to a relationship with some other ‘dominant purpose’—then ‘the communications, including any reports of factual material, would be privileged, even though the factual material might be discoverable by some other means.’”). The dominant purpose of the relationship between in-house counsel and the development team was attorney-client, rendering the challenged documents privileged. *See* Special Master’s Ruling on Obj. (Apr. 11, 2025) (quoting *McAdam v. State Nat. Ins. Co.*, 15 F. Supp. 3d 1009, 1015 (S.D. Cal. 2014) (“If the dominant purpose of the relationship was attorney-client at the time of the communications, they are privileged.”)).

Defendants incorporate by reference the legal standard and arguments set forth in their prior briefing (Dkts. 2433, 2461, 2528, 2544, and 2580). As explained more fully in the prior briefs, the applicable legal standard, Mr. Kolta’s declaration, and the factual material previously provided to the Special Master,² when reviewed in conjunction with the challenged documents and the associated metadata fields, support Uber’s privilege and work product assertions. The remaining privilege claims submitted for the Special Master’s determination should be upheld.

DATED: April 21, 2025

Respectfully submitted,

SHOOK HARDY & BACON L.L.P.

By: /s/ Jennifer Hill
JENNIFER HILL

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² As requested by the Special Master, Uber has provided (1) a glossary of terms commonly used in disputed documents, (2) a list of names and titles of relevant Uber inside and outside counsel, and (3) a digest of third-parties present in its privilege log. Defense counsel will also be available for any questions the Special Master may have during the review process.

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Jennifer Hill
JENNIFER HILL